IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.1014 OF 2005
IN
ARBITRATION PETITION NO.542 OF 2004

Subir Biswas — Appellant
vs.
Tata Finance Limited — Respondent

Mr.B.M. Chatterjee i/b. Ms.D.P.Nag for the appellant.

Mr.Birendra Saraf i/b.M/s.Kartikeya & Associates for the respondent.

CORAM : R.M. LODHA &
D.G. KARNIK, JJ.

DATED : 25th November 2005

P.C.

Admit.

2. M/s.Kartikeya & Associates waives service for the respondent.

3. By consent, the appeal is heard finally at this stage.

4. The learned counsel for the parties handed in the Minutes of the Order, marked "X" for identification purposes. The minutes of the Order need to be reproduced as lots of corrections have been made

therein. The minutes of the order read thus:

"**MINUTES OF THE ORDER**

1. Upon the Appellant making a payment of a sum of Rs.4,00,000/- on or before 10th December, 2005 and a further sum of Rs.16,00,000/- in 8 monthly installments of Rs.2,00,000/- each commencing from 10th January, 2006, the award dated 25th August, 2004 to be marked satisfied.

2. If in case, the Appellant commits either any two defaults in payment of the said installments or default in payment of the last installment in the mode and manner set out in clause 1 hereinabove, then the entire amount awarded and decreed under the said award minus the amount paid by the Appellant in furtherance of this Order, shall forthwith become due and payable and the Respondent shall be entitled to forthwith execute the said award and shall also be entitled to proceed with the hearing of the Criminal Complaint filed by the Respondent being Criminal Complaint No.1545/SS/2005 pending before the 14th Court of Metropolitan Magistrate at Girgaum, Mumbai.

3. Upon the payment of the sum of Rs.20,00,000/- in the manner set out in clause (1) above, the Criminal Complaint filed by the Respondent against the Appellant and other Directors and officers of Bharat Margarine Limited (being Criminal Complaint No.1545/SS/2005 pending before the 14th Court of Metropolitan Magistrate at Girgaum) shall be withdrawn by the Respondent.

4. Upon the receipt of the said sum of Rs.20,00,000/- by the Respondent in the manner and mode set out in clause (1) above and the decree in terms of the said award being marked satisfied the Respondent shall not be entitled to claim a lien and/or charge over the leased equipments which are presently in the custody of Official Liquidator,

Calcutta High Court and the Appellant shall be entitled to proceed against the same for his claim for the amount paid hereunder."

5. We dispose of the appeal in terms of the minutes noted above.

6. No costs.

(R.M.LODHA, J.)

(D. G. KARNIK, J.)